

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION
CASE NO. 2005-00235**

RECEIVED
OCT 17 2005
PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF MALLARD POINT
DISPOSAL SYSTEMS, INC. FOR AN
ADJUSTMENT OF RATES PURSUANT TO THE
ALTERNATIVE RATE FILING PROCEDURE
FOR SMALL UTILITIES

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**WRITTEN COMMENTS BY APPLICANT MALLARD POINT DISPOSAL
SYSTEMS, INC. TO PUBLIC SERVICE COMMISSION STAFF REPORT**

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Comes the Applicant Mallard Point Disposal Systems, Inc. ("Mallard Point"), pursuant to the Order dated August 15, 2005, and submits its Written Comments to the Public Service Commission Staff Report filed herein ("Staff Report"). While Mallard Point does not waive its right to fully participate in a hearing or any other proceedings in this matter, it does not request a formal hearing.

A. MALLARD POINT'S SLUDGE HAULING EXPENSE SHOULD BE INCREASED TO \$13,192.00.

Commission Staff corrected Mallard Point's understated test period actual sludge hauling expense listed on Appendix C of its Report in the sum of \$8,521.00 by \$100.00 to \$8,621.00.¹ However, Commission Staff has failed to take into consideration that certain letter dated September 9, 2005 from Martin's Sanitation Service to Mallard Point notifying it of a price increase from \$252.00 to \$388.00 per 4,000-gallon load, effectively immediately.² A copy of that letter is attached hereto as Exhibit 1. During Mallard Point's test period, Martin's Sanitation Service hauled approximately thirty four (34) 4000 gallon loads of Mallard Point sludge at a cost

¹ Staff Report, Appendix C, Comment a., p. 2.

² See letter from James M. Mooney, Esq. to Mr. Mark Frost dated September 15, 2005 filed herein, attaching the September 9, 2005 letter from Martin's Sanitation Service to Mallard Point.

of \$252.00 per load ($\$8,621.00/\$252.00 = 34.21$ loads). Assuming the same thirty four (34) loads, Mallard Point's sludge hauling expense will increase to \$13,192.00 (34 loads x \$388.00 = \$13,192.00). Of course, as users are added to Mallard Point's system over the ensuing years – perhaps as many as 20 – 40 customers per year for the next several years³ – Mallard Point anticipates that the number of loads will not remain static, but rather will increase. At a minimum, however, Mallard Point's proposed sludge hauling expense should be increased to \$13,192.00.

B. MALLARD POINT'S CONTRACT LABOR EXPENSE SHOULD BE INCREASED BY \$400.00.

Commission Staff reduced \$400.00 of Mallard Point's test period contract labor listed on Appendix C of its Report upon the mistaken assumption that the labor reported was performed outside the test period.⁴ While Commission Staff correctly notes that the invoice for that labor was dated January 2, 2004, its conclusion that it must have been performed in 2003 is incorrect. In fact, this expenditure was for Hispanic day labor, which was performed on that day, and was paid on that day. Periodic labor, particularly for a one-day job such as this to clean Mallard Point's sludge tanks, is paid at the end of the workday. Accordingly, Mallard Point's contract labor expense should be increased by an additional \$400.00.

C. MALLARD POINT'S REPAIR EXPENSE SHOULD BE INCREASED BY \$1,375.00.

1. The \$987.00 cost for replacement of blower transformers is a repair expense, and not a capital improvement.

Commission Staff erroneously moved the \$987.00 cost for the replacement of blower transformers from repair expenses listed on Appendix C of its Report and amortized it.⁵ Those

³ See Answers by Applicant Mallard Point Disposal Systems, Inc. to the Attorney General's First Information Request dated September 12, 2005 filed herein, No. AG-1-12.

⁴ Staff Report, Appendix C, Comment d., p. 7.

⁵ Staff Report, Appendix C, Comment e., p. 8.

transformers are neither a major component of Mallard Point's facilities, nor such a major repair so as to extend the useful life thereof or add to their value. Rather, they are "plug in" parts with only a 30-day warranty, and are properly expensed. Accordingly, Mallard Point's proposed repair expense should be increased by an additional \$987.00.

2. The \$388.00 repair for Pipe Eyes was properly documented.

Commission Staff mistakenly reduced Mallard Point's test period actual repairs listed on Appendix C of its Report by \$388.00 for Mallard Point's failure to provide a copy of the Pipe Eyes invoice reflecting an expenditure in that amount.⁶ However, Mallard Point did supply that invoice, which appears as Exhibit 1 to the First Supplemental Answers by Applicant Mallard Point Disposal Systems, Inc. to Commission Staff's First Information Request dated September 16, 2005 filed herein. Another copy of that invoice is attached hereto as Exhibit 2. Accordingly, Mallard Point's proposed repairs expenses should be increased by an additional \$388.00.

D. MALLARD POINT'S AMORTIZATION EXPENSE SHOULD BE INCREASED BY \$5,500.00.

1. The three (3) year amortization of Mallard Point's legal fees in this proceeding is properly the sum of \$1,971.00.

Commission Staff correctly reduced the amount of Mallard Point's legal fees listed on Appendix C of its Report to be amortized from its last rate case⁷ from \$21,904.00 to \$11,223.00.⁸ There, the Public Service Commission split the legal fee incurred between Mallard Point and its ratepayers,⁹ which split thereby reduces the amortized amount from \$7,301.00 to \$3,741.00.¹⁰ However, Commission Staff has mistakenly calculated the three (3) year amortization of Mallard

⁶ Staff Report, Appendix C, Comment e., p. 8.

⁷ Application of Mallard Point Disposal Systems, Inc. for an Adjustment of Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities, Case No. 2003-00284, (Ky. PSC May 27, 2004).

⁸ Staff Report, Appendix C, Comment g., pp. 10-11.

⁹ Application of Mallard Point Disposal Systems, Inc. for an Adjustment of Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities, Case No. 2003-00284, (Ky. PSC May 27, 2004), Order dated May 27, 2004, p. 11.

¹⁰ Staff Report, Appendix C, Comment g., p. 11.

Point's legal fees listed on Appendix C of its Report in this proceeding in the sum of \$5,913.00 to be \$986.00.¹¹ Apparently, Commission Staff split the current legal fees pursuant to the Commission Order entered in Case No. 2003-00284 and amortized that reduced amount. That Order, however, is inapplicable here. The correct amortized amount is \$1,971.00. Mallard Point's amortization expense should be increased accordingly.

2. Mallard Point's \$3,200.00 accounting invoice should be properly amortized.

Commission Staff reduced \$3,200.00 of Mallard Point's test period amortization listed on Appendix C of its Report – representing the total amount of Mallard Point's invoice for accounting services – because i) the accountant's invoice lacked the necessary detail such as complete descriptions of the services provided, the amount of time billed for each service, and the hourly billing rate, and ii) the only service provided by Mallard Point's accountant was to revise the Staff's draft application.¹² The accountant's summary of time expended on behalf of Mallard Point is expounded upon in the billing report attached hereto as Exhibit 3. That report supplies the detail lacking in his summary, and reflects that 28.6 accounting hours were expended on Mallard Point business in preparation for the filing of its Application herein. By way of further explanation, the "work on application" listed on June 2, 2005 consisted of the specific services listed on attached Exhibit 4, also supplied by Mallard Point's accountant. Mallard Point's test period amortization should be increased by an additional \$3,200.00.

¹¹ Staff Report, Appendix C, Comment g., p. 11.

¹² Staff Report, Appendix C, Comment g., p. 11.

3. **If the \$987.00 cost for replacement of blower transformers is a capital improvement and not a repair expense,¹³ then the three (3) year amortization thereof is properly the sum of \$329.00.**

Commission Staff has mistakenly calculated the three (3) year amortization of a blower transformer listed on Appendix C of its Report in the sum of \$987.00 to be \$165.00.¹⁴ Again, it appears Commission Staff has evenly divided the total cost incurred and amortized that reduced amount. The correct amortized amount is \$329.00. Accordingly, Mallard Point's amortization expense should be increased by that amount.

CONCLUSION

For all of the foregoing reasons, Mallard Point respectfully requests that the Commission's Order reflect the above-suggested changes.

Respectfully submitted,

JAMES M. MOONEY
MATTHEW L. MOONEY
MOONEY, MOONEY & MOONEY
208 SOUTH LIMESTONE STREET
LEXINGTON, KENTUCKY 40508-2502
(859) 259-2701

ATTORNEYS FOR MALLARD POINT
DISPOSAL SYSTEMS, INC.

CERTIFICATE OF SERVICE

I hereby certify that the original and eight (8) copies hereof was mailed, postage prepaid, to the following:

Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

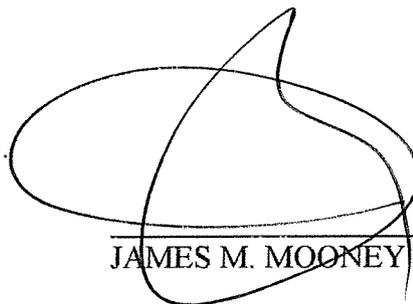
and that a copy of the foregoing was mailed, postage prepaid, to the following:

¹³ See *supra*. at pp. 2-3.

¹⁴ Staff Report, Appendix C, Comment g., p. 11.

Honorable David Edward Spenard
Office of the Attorney General
1024 Capital Center Drive, #200
Frankfort, KY 40601-8204

on this the 17th day of October, 2005.

A handwritten signature in black ink, appearing to read 'JAMES M. MOONEY', is written over a horizontal line. The signature is stylized with large loops and a long tail.

JAMES M. MOONEY

ATTORNEY FOR MALLARD POINT
DISPOSAL SYSTEMS, INC.

LAW OFFICES
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(859) 259-2701
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(859) 259-2703

September 15, 2005

Mr. Mark Frost
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

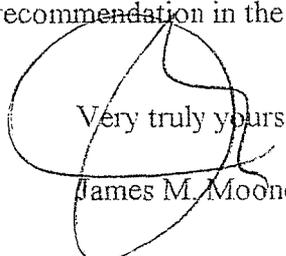
Re: In Re: Mallard Point Disposal Systems, Inc., Commonwealth of Kentucky,
Public Service Commission, Case No. 2005-00235

Dear Mark:

Enclosed please find a copy of a letter dated September 9, 2005 from Martin's Sanitation Service to Mallard Point Disposal Systems, Inc. notifying it of a price increase from \$252.00 to \$338.00 per 4,000-gallon load, effectively immediately. Please take this increase into consideration when making the Staff's recommendation in the above matter.

Thank you.

Very truly yours,


James M. Mooney

jmm

Enclosure

cc: David Edward Spenard, Esq. (w/enc.)
Office of the Attorney General
1024 Capital Center Drive, #200
Frankfort, Kentucky 40601-8204

EXHIBIT 1

MARTIN'S SANITATION SERVICE

Pumper Magazine's "2002 Contractor of the Year"

P.O. Box 5343 PARIS, KENTUCKY 40362-5343

Phone (859) 987-2529

E-Mail: mithornton@martins-services.com

Fax (859) 987-2583

www.martins-services.com

September 9, 2005

Mallard Point Disposal Systems, Inc.

Attention: Mark Smith

104 Teal Court

Georgetown, KY 40324

Re: Price increase

Mark,

Due to the rising cost of fuel, worker's compensation and general liability insurance, I am left with no choice but to increase our company rates. This is the first company rate increase on package plants that we have had in the past five years.

Previously you were being charged \$252.00 per 4,000 gallon load. Effective immediately that price has increased to \$338.00 per 4,000 gallon load.

The last invoice that you received (Invoice #3906) was discounted to \$300.00 per 4,000 gallon load, however, all future invoices will be at the new price of \$338.00.

We appreciate your continued support of our company and if you have any questions at all please call me at the office (859)987-2529 or on my mobile (859)983-3871.

Sincerely,



Mike Thornton

Pipe Eyes, LLC
 2393 Alumni Drive, Suite 100
 Lexington, KY 40517

INVOICE

INVOICE D...	INVOICE #
1/23/2004	3211

SOLD TO
Mallard Point Disposal Systems, Inc. 104 Teal Ct Georgetown, KY 40324

SHIP TO
Mallard Point Disposal Systems, Inc. 104 Teal Ct. Georgetown, KY 40324

DUE DATE
2/23/2004

QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
1	Other Charge	Cleaning Lines	388.00	388.00
			Total	\$388.00
			Payments/Credits	\$0.00
			Balance Due	\$388.00

Pd
1/26/04
388.⁰⁰

A finance charge of 2% per month will be applied to your unpaid due balance.

PLEASE NOTE REMITTANCE ADDRESS

Phone #	Fax #	E-mail
859-266-3200	859-269-7200	mstromquist@pipeeyesllc.com

EXHIBIT 2

Stivers & Associates PC, CPAs
Super WIP
 For dates from 9/30/1998 to 6/30/2005

Project	Task	Date	Work Code	T EmpID	Name	Invoice #	Partner	Hours	Rate	Amount	Bill At
2509	401		Mallard Point Disposal Systems, Inc.				MARK			\$1,486.00	On 4/8/2005
		6/10/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		0.70	180.00	126.00	
		6/1/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		0.20	180.00	36.00	
		6/1/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		1.50	180.00	270.00	
		6/2/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		7.00	180.00	1,260.00	
		5/23/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		0.70	180.00	126.00	
		5/26/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		3.10	180.00	558.00	
		5/19/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		0.90	180.00	162.00	
		5/31/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		1.10	180.00	198.00	
		5/20/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		0.70	180.00	126.00	
		5/11/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		2.50	180.00	450.00	
		5/17/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		0.50	180.00	90.00	
		5/9/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		0.30	180.00	54.00	
		5/10/2005	TX330	SCor - Planning	T MARK	Enderle, Mark		0.70	180.00	126.00	
								<u>22.40</u>		<u>\$4,032.00</u>	

Total Work Code: TX330

Oct. 14 2005 03:34:34 PM FAX NO. : 859 255 6198

FROM : Tuesday, June 21, 2005

11:17:57AM

Stivers & Associates SC, CPAs
Super WIP

For dates from 9/30/1998 to 6/30/2005

Project	Task	Date	Work Code	T	EmpID	Name	Invoice #	Hours	Rate	Amount	Bill At
Current:	Hours	11.90	Time	2,142.00	Expense	0.00	**Client Total**	28.60		\$4,504.00	
YTD:	Account Aging	28.60		4,504.00		0.00		72.00	0.00	4,504.00	

Billing Notes:

2509 MALLARD POINT DISPOSAL SYSTEMS

Total Partner: MARK

28.60 \$4,504.00

Grand Totals

28.60 \$4,504.00

FINAL

VARIOUS MEETINGS, WORK WITH JAMES MOONEY, COMMUNICATIONS
WITH MARK FROST, REVUE PSC DRAFT APPLICATION AND
RE-FILE \$3,200.00

Detail of work done June 1, June 2:

- Gathering "missing" invoices
- Drafting preliminary responses
- Expanding and correcting depreciation schedules
- Evaluate PSC work and modify where appropriate
- Communications with bookkeeper
- Prepare responses to AG's requests

EXHIBIT 4